

## V. REMARKS

Claims 1-49 are pending in the current application, of which claims 8-15, 17-26 and 46-49 are withdrawn from consideration. In the Office Action mailed February 12, 2004, the Examiner rejects claims 1-7, 16 and 27-45. The specification, drawings, and claims 28, 40 and 41 are currently amended. No new matter is presented by these amendments. Accordingly, the Applicant respectfully requests entry thereof and reconsideration of claims 1-7, 16 and 27-45 in light of the following remarks.

### A. Objections to Drawings

On page 2 of the Action, the drawings are objected to as failing to comply with 37 C.F.R. § 1.84(p)(5) because they include references not mentioned in the description. In response to the objection, the Applicant has amended drawing Figure 1 in accordance with the Examiner's recommendations by removing reference characters "120" and "140." Replacement Figure 1 is attached hereto as Appendix C.

On pages 2-3 of the Action, the drawings are objected to as failing to comply with 37 C.F.R. § 1.84(p)(4) because the description uses certain reference characters to designate multiple features. In response to the objection, the Applicant has amended the specification in to remove the apparent inconsistencies:

- Reference character "10" is intended to designate an absorbent garment. As noted on page 9, lines 19-20 of the specification, "absorbent garment" and "garment" are used interchangeably. The specification on page 16, lines 18-19 was amended to provide consistency with this nomenclature — "pant-like garment 10" was replaced with "garment 10 having a pant-like configuration."
- Reference character "34" is intended to designate tabs which may or may not be elasticized (*see* page 17, lines 25-27). The specification on page 18, line 1 has been amended to provide consistency with this nomenclature — "elasticized tabs 34" has been replaced with "tabs 34."

- Reference character “32” is intended to designate waist elastic material, which may be foam, or other elastically extensible materials (*see* page 17, lines 17-20; page 25, lines 3-21). The specification has been amended to provide consistency with this nomenclature — on page 17, line 18: “elastic waist foam 32” has been replaced with “waist elastic material 32, such as elastic waist foam or other elastically extensible material;” on page 18, lines 1-2: “waist foam 32, or other elastically extensible materials 32” has been replaced with “waist elastic material 32, such as foam or other elastically extensible materials;” and on page 25, lines 6, 8: “waist elastics 32” has been replaced with “waist elastic materials 32.”
- Reference character “42” is intended to designate one or more elastic members disposed within a fold on waste containment flaps 40 (*see* page 23, lines 1-4). The specification on page 23, line 5 has been amended to provide consistency with this nomenclature — “flap elastic 42” has been replaced with “elastic member 42.”
- Reference character “30” is intended to designate elastic gathers (*i.e.*, leg elastics) that extend adjacent to the crotch edges (*see* page 17, lines 10-12 and paragraph bridging pages 25-26). The specification has been amended to provide consistency with this nomenclature — on page 17, line 11: “elastic gathers 30” has been replaced with “elastic gathers 30 (leg elastics);” and on page 25, lines 22-23: “leg elastic containment system 30” has been replaced with “leg elastics 30 to form a containment system.”
- Reference character “286” is intended to designate one or more of the layers of the multiple-layer absorbent laminate core 28. The layer 286 is referred to as an “additional layer” and is distinguished from central fibrous layer 284 (*see* paragraph bridging pages 27-28). This additional layer may comprise several different materials such as, for example, a fluid acquisition layer (page 35, lines 22-23), a fluid distribution layer (page 36, lines 18-19), a storage layer (page 37, lines 17-18), a wicking layer (page 38, line 9), and combinations of layers (page 42, lines 20-21). Additional layer 286 may be continuous in length or width, or fragmented (page 42, lines 24-26). The specification has been amended to provide consistency with this nomenclature, so that reference character 286 designates an “additional layer” throughout the specification.

- Reference character “284” is intended to designate a central fibrous layer of multiple-layer absorbent laminate core 28 (*see* paragraph bridging pages 27-28). The specification has been amended to provide consistency with this nomenclature, so that reference character 284 designates an “central fibrous layer” throughout the specification.

Applicant submits that no new matter has been introduced by these amendments, and respectfully requests entry thereof, and withdrawal of the objections to the drawings.

#### **B. Objections to Specification**

On pages 3-4 of the Action, the specification is objected to as failing to provide proper antecedent basis for a hook portion, a loop portion or a hook and loop fastener as set forth in claims 4 and 36, and for a tape receiving surface as set forth in claims 5 and 37. In response to this objection, Applicant has amended the specification, on page 18, line 8, by inserting the following text to provide antecedent basis for the claimed features: “For example, in one embodiment of the invention, the fastening mechanism is a hook and loop fastener, where one fastening element is a hook portion, and a corresponding target device is a loop portion of the hook and loop fastener. In another embodiment, the fastening mechanism is a tape fastener system, where one fastening element is an adhesive tape, and a corresponding target device is a tape receiving surface.” Support for this amendment may be found in original claims 4, 5, 36 and 37.

On page 4 of the Action, the specification is objected to as failing to provide proper antecedent basis for a SAP efficiency of at least 80 % as recited in claim 27. In response to this objection, Applicant has amended the specification, on page 14, line 13, by inserting the following text to provide antecedent basis for the claimed feature: “Preferably, the SAP efficiency of the central fibrous layer is at least 80%.” Support for this amendment may be found in original claim 27.

On page 4 of the Action, the title is objected to because it is not descriptive. In response to this objection, Applicant has amended the title to read: “Absorbent Laminate Having Multiple Layers.”

On page 4 of the Action, the use of several trademarks is noted. Applicant has reviewed the use of trademarks in the specification and claims, and has amended the specification to reflect the following:

- The word “lyocell” is a generic name for a fiber that is a form of rayon, but “COURTAULD’S LYOCELL” is a trademark used to identify a source of the lyocell fiber. The specification on page 29, lines 5 and 10-11, and claims 28 and 40 have been amended to properly reflect proper format for trademark identification purposes.
- The word “CYCLOFLEX” is a trademark used to identify a source of a hot melt adhesive. The specification on page 24, line 25, has been amended to reflect proper format for trademark identification purposes.

Applicant submits that no new matter is presented with these amendments, and respectfully requests entry thereof, and withdrawal of the objections to the specification.

#### **C. Claim Objections**

On page 4 of the Action, claim 41 is objected to because the letters “rs” appeared after the word “fibers.” Applicant appreciates the Examiner identifying this typographical error in the claims, and has accordingly amended claim 41 to remove the letters “rs.” As such, Applicant respectfully requests withdrawal of this objection to claim 41.

#### **D. Claim Rejections**

On pages 4-11 of the Action, claims 1-7, 16 and 27-45 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Serial No. 10/046,554 (Pub. No. 2003/013517), by Andrew Baker (“Baker”), published July 17, 2003, and filed January 16, 2002. Applicant is submitting a declaration pursuant to 37 C.F.R. § 1.131 to establish prior invention.

Applicant first submits that the 102(e) date of the Baker reference is the filing date of January 16, 2002. Applicant attaches as Appendix A a declaration of the inventor under 37 C.F.R. § 1.131, together with the documentation of Appendix B for the purpose of overcoming

the Baker reference by establishing the date of invention of the subject matter of claims 1-7, 16 and 27-45 prior to at least ***January 16, 2002***, the effective date of the Baker patent.

The declaration of Ebba A. Hansen (Appendix A), establishes conception of the subject matter of claims 1-7, 16 and 27-45 prior to January 16, 2002, coupled with diligence by her appointed patent attorneys in preparing the filed application from at least prior to January 16, 2002 until January 17, 2002, the filing date of the application (constructive reduction to practice). In support of this declaration, copies of the laboratory notebook in which she first documented her invention prior to January 16, 2002, are attached as Appendix B. Applicant respectfully submits that the idea of the invention as recited in the pending claims was fully and completely disclosed prior to January 16, 2002.

In accordance with the foregoing, Applicant respectfully submits that the Baker reference, filed on January 16, 2002 is not prior art and the rejections to claims 1-7, 16 and 27-45 based on this reference should be withdrawn.


Applicant respectfully requests that, upon allowance of the generic claims, the withdrawn claims 8-15, 17-26, and 46-49 be considered as provided by 37 C.F.R. §1.141.

## VI. CONCLUSION

For at least the reasons outlined above, the Applicant submits that the application is in condition for allowance. Favorable reconsideration and allowance of the pending claims are respectfully solicited. Should there be anything further required to place the application in better condition for allowance, Examiner Kidwell is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,  
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